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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,429	02/10/2004	Kuan-Yu Chu	CHUK3002/EM	1086
23364	7590	12/06/2006	EXAMINER KIM, PAUL D	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			ART UNIT 3729	
PAPER NUMBER				

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/774,429

Applicant(s)

CHU, KUAN-YU

Examiner

Paul D. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This office action is a response to the restriction requirement filed on 9/29/2006.

#### ***Response to the Restriction Requirement***

1. Applicant's election of Group I, claims 1-6, in the reply filed on 9/29/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 7-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/29/2006.

#### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: --A METHOD OF FABRICATING A TEMPERATURE SENSING TUBE--.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are numerous phrases and clauses that are naming the claimed invention devices by other descriptive words other than what is used in the disclosure that are vague, indefinite, and/or awkwardly and confusingly worded, and therefore, are not fully understood. Further, it is extremely difficult to decipher and pin point each claimed invention devices with that of the figures and causing confusion (i.e., vague and unclear). The following are examples of such deficiencies:

**Re. Claim 1:** Before the phrase "tube member" as recited in line 3, the phrase "the" appears to be --a--.

Before the phrase "neck base" and "neck body" as recited in lines 5-6, both of the phrase "the" appears to be --a--.

Before the phrase "steps complete" as recited in line 3, delete the phrase "said".

The phrases "a curvilinear semifinished product" as recited in line 3, "a semifinished product" as recited in line 5, a finished product" as recited in line 7 renders the claim vague and indefinite. It is unclear as to what the curvilinear semifinished product, semifinished product and finished product are indicated. In addition, the phrase "the steps complete the fabrication of the temperature sensing tube" as recited in line 9 renders vague and indefinite. It is unclear as to what steps are indicated to complete the fabrication of the temperature sensing tube. It appears to be that each of the curvilinear

semifinished product, semifinished product and finished product are made separately and they are integrated all together to complete the fabrication of the temperature sensing tube.

**Re. Claims 2 and 3:** The phrase "As mentioned in Claim 1 of the temperature sensing tube fabrication method of the invention herein" as recited in lines 1 and 2 needs to be changed to –The method of claim 1--.

**Re. Claim 2:** Before the phrases "step in which" and "semifinished product" as recited in line 2, "neck base", "neck body" and "tube member" as recited in line 3, delete the phrase "said".

**Re. Claim 3:** Before the phrases "step in which" and "semifinished product" as recited in line 2, "neck base" and "neck body" as recited in line 3, "finished product", "outer conoidal hem" as recited in line 4 and "inner conoidal hem" as recited in line 5, "semifinished" as recited in line 5 and "tube member" as recited in line 6, delete the phrase "said".

The phrase "the said tube member bottom section hole mount" as recited in line 6 lacks antecedent basis.

**Re. Claim 4:** Before the phrase "tube blank" as recited in line 2, the phrase "the said" appears to be –a--.

Before the phrase "tube blank" as recited in line 3, delete the phrase "said".

Before the phrase "curvilinear semifinished product" as recited in line 6, the phrase "the said" appears to be –a--.

Before the phrase "tube member" as recited in line 7, the phrase "the said" appears to be --a--.

Before the phrase "semifinished product" as recited in line 8, delete the phrase "said".

Before the phrase "semifinished product" as recited in line 11, the phrase "the said" appears to be --a--.

Before the phrase "neck base" and "neck body" as recited in line 12, both the phrase "the said" appears to be --a--.

Before the phrase "semifinished product" as recited in line 13, delete the phrase "said".

The phrase "the said semifinished product of the previous step" as recited in line 13 renders the claim vague and indefinite. It is unclear as to what the semifinished product of the previous step is indicated. Is it the "curvilinear semifinished product" as recited in line 6 or "semifinished product of the neck base and neck body" as recited in lines 11 and 12?

Before the phrase "semifinished product" as recited in lines 16 and 17, the phrase "the said" appears to be --a--.

Before the phrase "neck base" and "neck body" as recited in line 17, both the phrase "the said" appears to be --a--.

Before the phrase "semifinished product" as recited in line 18, delete the phrase "said".

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The phrase “the said semifinished product of the previous step” as recited in line 18 renders the claim vague and indefinite. It is unclear as to what the semifinished product of the previous step is indicated. Is it the “curvilinear semifinished product” as recited in line 6 or “semifinished product of the neck base and neck body” as recited in lines 11 and 12 or “further form a semifinished product of the neck base and neck body” as recited in lines 16 and 17?

Before the phrase “finished product” as recited in line 22, the phrase “the said” appears to be –a--.

Before the “outer conoidal hem” as recited in line 22, the phrase “the said” appears to be –an--.

Before the “inner conoidal hem” as recited in line 23, the phrase “the said” appears to be –an--.

Before the phrase “steps complete” as recited in line 24, delete the phrase “said”.

The phrases “the steps complete the fabrication of the temperature sensing tube” as recited in line 24 renders vague and indefinite. It is unclear as to what steps are indicated to complete the fabrication of the temperature sensing tube.

**Re. Claims 5 and 6:** The phrase “As mentioned in Claim 4 of the temperature sensing tube fabrication method of the invention herein” as recited in lines 1 and 2 needs to be changed to –The method of claim 4--.

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**Re. Claim 5:** Before the phrases “step in which” and “semifinished product” as recited in line 2, “neck base”, “neck body” and “female die” as recited in line 3, and “tube member” as recited in line 5, delete the phrase “said”.

Before the phrase “die cavity” as recited in line 4 and “circular groove-shaped” as recited in lines 4 and 5, change the phrase “the said” to –a--.

The phrase “the said semifinished product of the said neck base and the said neck body is formed” as recited in lines 2 and 3 renders the claim vague and indefinite. It is unclear as to what the semifinished product of the neck base and the neck body is indicated. Is it the “semifinished product of the neck base and neck body” as recited in lines 11 and 12 or “further form a semifinished product of the neck base and neck body” as recited in lines 16 and 17?

Also, the phrase “that” as recited in line 4 renders vague and indefinite. It is unclear as to what the “that” is indicated.

**Re. Claim 6:** Before the phrases “step in which” and “semifinished product” as recited in line 2, “neck base”, “neck body” as recited in line 3, and “finished product”, “outer conoidal hem” and “inner conoidal hem” as recited in lines 4-5, delete the phrase “said”.

Before the phrases “step in which” as recited in line 5, insert a phrase “a”.

Before the phrase “semifinished product” as recited in lines 5-6, delete the phrase “said”.



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The phrase "the said semifinished product of the previous step" as recited in lines 5-6 renders the claim vague and indefinite. It is unclear as to what the semifinished product of the previous step is indicated.

Before the phrase "female die" as recited in line 6, delete the phrase "said".

Before the phrase "die cavity" as recited in line 7, delete the phrase "said".

Before the phrase "circular groove-shaped" as recited in line 7, the phrase "the said" appears to be --a--.

Before the phrase "punching die" as recited in lines 7-8, delete the phrase "said".

Before the phrase "channel" and "suitably long" as recited in line 8, delete the phrase "said".

Before the phrase "semifinished product" as recited in line 9, the phrase "the" appears to be --a--.

Before the phrase "tube member bottom section hole mount" as recited in line 10, the phrase "the said" appears to be --a--.

Although, every applicant is entitled to make up new terminologies, as so desired, please clarify what the deficiencies are so that the examiner can clearly understand and prosecute the merits of the invention by pointing out the claimed devices in the specification and the drawings in the next communication. Applicant's full cooperation will be greatly appreciated.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 are, as best understood in view of the rejections under 112 second paragraphs, rejected under 35 U.S.C. 102(b) as being anticipated by O'Connell et al. (US PAT. 5,743,646).

O'Connell et al. teach a process of fabricating a temperature sensing tube comprising steps of: providing a tubular blank (10) of an appropriate length; forming a tube member bottom section aperture (either tip of item 23 or a top portion of item 50) as shown in Figure; forming a neck base (12) and the neck body (14); and forming an outer conoidal hem and an inner conoidal hem (36) (see also col. 2, line 21 to col. 3, line 35).

8. No art rejections have been applied to the claims 4-6, since there are a great deal of confusion and uncertainty as to the proper interpretation of the limitations of claims. Therefore, it would not be proper to reject such claims on the basis of prior art. See MPEP 2173.06.

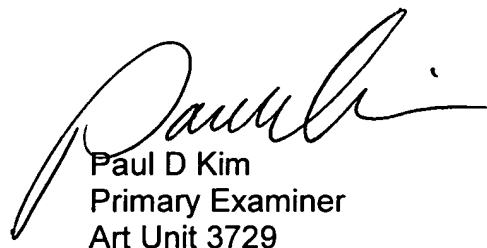
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**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul D. Kim whose telephone number is 571-272-4565. The examiner can normally be reached on Monday-Thursday between 6:00 AM to 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Paul D Kim  
Primary Examiner  
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